

REMARKS

Claims 1-8, 14-24 and 30-33 are pending in the application.

Claims 1-8, 14-24 and 30-33 have been rejected.

Rejection of Claims Under 35 U.S.C. §103

Claims 1-8, 14-24 and 30-33 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,804,657 issued to Sultan et al. (“Sultan”). Applicants respectfully traverse this rejection.

In order for a claim to be rendered invalid under 35 U.S.C. §103, the subject matter of the claim as a whole would have to be obvious to a person of ordinary skill in the art at the time the invention was made. *See* 35 U.S.C. §103(a). This requires: (1) the reference(s) must teach or suggest all of the claim limitations; (2) there must be some teaching, suggestion or motivation to combine references either in the references themselves or in the knowledge of the art; and (3) there must be a reasonable expectation of success. *See* MPEP 2143; MPEP 2143.03; *In re Rouffet*, 149 F.3d 1350, 1355-56 (Fed. Cir. 1998).

Independent Claims 1, 14, 17, 30 and 33 each contain a limitation of substantially the following form: “identifying opportunity data or revenue data corresponding to members of the organization, wherein the members of the organization are associated with positions in a hierarchy structure of the organization.” *See, e.g.*, Claim 1. Applicants respectfully submit that Sultan does not provide disclosure of this claim limitation. The Office Action cites to a portion of Sultan’s “Summary” section that discloses purportedly “storing the forecast sales information in the database and tagging

the stored forecast sales information to that member of the sales force having modified the pipeline sales information,” and then positing that the disclosed “forecast sales information” is based on revenue in light of an example provided at Sultan 8:40-43. *See* Office Action, p. 3 (citing Sultan 2:31-33). The Office Action then states, “Because the information associated with each sales member is based on revenue, this is deemed equivalent to identifying revenue data for each member as it performs an identical function in substantially the same manner with substantially the same results.” Office Action, p.3.

Applicants respectfully submit that the cited example does not disclose that Sultan’s “forecast sales data” discussed in Sultan column 2 is based on revenue. *See* Sultan 8:40-43 (“For example, such a person might belong to a finance department dealing with revenue forecasts.”). In fact, Sultan discusses the disclosed “forecast sales information” at length and only indicates that the “forecast sales information” is related to “additional information” that “may affect the original pipelined information.” *See* Sultan 7:5-25. Further, Sultan discloses that the “original pipeline information” is purportedly increased or decreased based upon the “forecast sales information.” Thus, Sultan provides no enabling disclosure that the “forecast sales information” is revenue.

Applicants further respectfully submit that it is inappropriate for the Examiner to perform a function/way/result test as provided in the Office Action. The statute requires that each element be taught by the reference. By performing a function/way/result test, the Examiner admits that the element itself is not disclosed. The function/way/result test is not a proper mechanism for determining obviousness under 35 U.S.C. §103, but instead is a tool used in a doctrine of equivalence analysis for infringement when no literal infringement is found. Finally, Applicants do not concede that even were the so-

called “forecast sales data” to be based on revenue, as suggested by the Office Action, that the “forecast sales data” would be equivalent to (if anything) the claimed “revenue data.” Merely implying that Sultan’s disclosed “forecast sales data” is based on revenue does not mean that the “forecast sales data” is revenue data. Such is simply not the case.

Independent Claims 1, 14, 17 and 30 each contain a limitation of substantially the following form: “calculating forecast data corresponding to the members of the organization using the opportunity data and the revenue data corresponding to members of the organization.” *See, e.g.*, Claim 1. Applicants respectfully submit that the Office Action fails to establish that Sultan discloses this claim limitation. Applicants submit that the Office Action is not consistent in its use of terms, especially with regard to the use of Sultan’s “forecast sales data.” With regard to the “identifying” limitation (discussed above), the Office Action attempts to equate Sultan’s “forecast sales information” with the claimed “revenue data.” But with regard to the “calculating” limitation, the Office Action attempts to equate Sultan’s “forecast sales data” with the claimed “forecast data,” which the claims require to be calculated from the claimed opportunity data and revenue data.” By saying that Sultan’s “forecast sales data” is both the claimed “forecast data” and the claimed “revenue data,” the Office Action is effectively eliminating the meaning of one of those claim elements by saying that the claimed “forecast data” is calculated from itself. Such a result is impermissible because it vitiates, or eliminates, an element of the claim. *See Warner-Jenkinson Co. v. Hilton Davis Chem. Co.*, 520 U.S. 17, 39 n.8 (1997).

Independent Claims 1, 17 and 33 each contain a limitation of substantially the following form: “generating a forecast for the first member of the organization, wherein the data used for said generating the forecast is limited to forecast data corresponding to

the members of the organization according to the visibility rules.” *See, e.g.*, claim 1. Applicants respectfully submit that the Office Action fails to establish that Sultan discloses this claim limitation. For this limitation, the Office Action cites to a section of Sultan’s “Summary” that suggests that Sultan’s “real time sales forecast” is generated using “stored sales forecast information and/or stored pipeline sales information.” *See* Office Action, p.4 (citing Sultan 2:58-3:2). Applicants respectfully submit that such disclosure cannot correspond to the “generating” claim limitation that requires the generating of the claimed forecast be limited to forecast data corresponding to the members of the organization, unless the Office Action (1) ignores the inclusion of “stored sales forecast information” provided by Sultan and (2) equates Sultan’s “sales forecast information” to the claimed “forecast data.” Thus, once again, the “sales forecast information” cannot be said to be the claimed “revenue data.”

Independent Claims 1, 14, 17, 30 and 33 each contain limitations of substantially the following form:

associating a state with the forecast, wherein the state comprises one of a created forecast state,
an included forecast state, if the forecast is included in data of a forecast of another,
a submitted forecast state, if the forecast is submitted by the first member of the organization, and
an included-as-submitted forecast state, if the forecast is submitted by the first member of the organization and included in data of a forecast of another;
modifying states associated with each forecast data corresponding to members of the organization to one of
the included forecast state, if the forecast data does not currently have the submitted forecast state, and
the included-as-submitted forecast state, if the forecast data does currently have the submitted forecast state.

See, e.g., Claim 1. Applicants respectfully submit that the cited sections of Sultan do not provide disclosure of these claim limitations.

As purported disclosure of these claim limitations, the Office Action cites to Sultan 2:24-47 as providing purported disclosure of “states.” The Office Action makes no attempt to link the purportedly disclosed “states” with the four specifically described states of the claims. Essentially, the Office Action ignores these limitations, which is impermissible. By failing to provide any linkage between Sultan’s so-called “states” and those which are claimed, at best results in Sultan merely teaching purported states. This is not sufficient to provide anticipatory disclosure of all the elements of the “associating” and “modifying” claim limitations.

The claim requires a state to be associated with the forecast. The cited section provides no disclosure of any such association whatsoever. Further, the listed “states” in the Office Action are not linked by the Office Action with the claimed states.

Each of the independent claims contains a limitation of substantially the following form: “enabling the first member to modify the forecast data corresponding to the members of the organization, if the forecast data does not have an associated included-as-submitted forecast state.” *See, e.g.*, Claim 1. Applicants respectfully submit that the cited sections of Sultan fail to provide disclosure of this claim limitation. The Office Action cites to a section of Sultan that suggests that a “sales manager position” can access and modify information submitted by hierarchically lower positions. *See* Office Action, p.5 (citing Sultan 7:44-52). The cited section of Sultan provides no indication of the restriction on the ability of the disclosed “Sales Manager” from being able to modify information provided by hierarchically lower members, as provided in the claim. The above-discussed “associating” limitation provides that a forecast has one of four specific

states. The “enabling” limitation restricts modifying forecast data to situations where one specific state is not present. As discussed above, Sultan provides no disclosure of the claimed state information. Therefore, Sultan cannot disclose restricting enabling based on that state information, as claimed. And, in fact, as discussed above, Sultan provides no state-based restriction whatsoever on the disclosed modifying. Applicants further note that even were the Office Action’s arguments related to what is purported to be “state” information in Sultan accepted, Sultan provides no disclosure of restricting the “Sales Manager’s” ability to modify information based on any of the purported “states” discussed by the Office Action.

The Office Action suggests that independent Claims 1, 14, 17, 30 and 33 all contain the same, or substantially the same, limitations. *See* Office Action, p. 3. Applicants respectfully submit that the independent claims do not contain identical sets of limitations. In the discussion presented above, Applicants have grouped the independent claims appropriately with the discussed claim limitations. Applicants further submit that, to the extent that the Office Action does not discuss the disclosure of limitations provided in the various independent claims, that Sultan presumptively does not disclose those limitations and that those claims are allowable as claimed. These limitations include the following:

- Claim 14: “determining an identity;” “identifying subordinate members;” and, “presenting forecast data.”
- Claim 17: “identifying hierarchy data”
- Claim 30: “determining an identity;” “identifying subordinate members;” and, “presenting forecast data.”
- Claim 33: “a forecast series block;” and, “an opportunity and revenue scheduling creation block.”

Applicants therefore respectfully request an indication of the allowability of these claims.

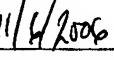
Applicants respectfully submit that the Office Action has not established the presence of all the limitations of the independent claims in Sultan. The burden is on the Examiner to support a case of obviousness, including whether the prior art references teach or suggest all of the claimed limitations. *See* MPEP 706.02(j). For these reasons, Applicants respectfully submit that the Office Action fails to present a *prima facie* case of obviousness of independent Claims 1, 14, 17, 30 and 33, and all claims dependent upon them, and that they are in condition for allowance. Applicants therefore respectfully request the Examiner's reconsideration and withdrawal of the rejections to those claims, and an indication of the allowability of same.

CONCLUSION

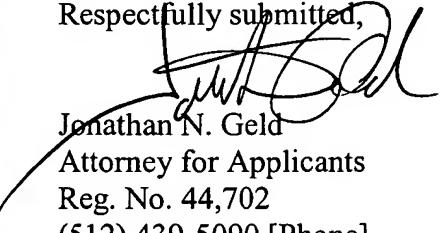
In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5090.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, COMMISSIONER FOR PATENTS, P. O. Box 1450, Alexandria, VA 22313-1450, on November 6, 2006.


Attorney for Applicant(s)


Date of Signature

Respectfully submitted,


Jonathan N. Geld
Attorney for Applicants
Reg. No. 44,702
(512) 439-5090 [Phone]
(512) 439-5099 [Fax]